

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

ANTOINE DESHAWN MILLER,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-05829  
(Criminal No. 2:04-00096)

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

On July 24, 2019, the court received the Proposed Findings and Recommendation (PF&R) of United States Magistrate Judge Omar J. Aboulhosn wherein it is recommended that this case be reinstated to the court's active docket, Miller's Motion to Vacate, Set Aside or Correct Sentence be granted and that his sentence be vacated for the reasons set forth therein. The magistrate judge further recommends that the district court "may then discharge Movant, resentence him, or correct his sentence as may appear appropriate."

Miller has objected to the PF&R insofar as it does not recommend his immediate discharge from imprisonment. While it does appear that Miller is entitled to relief, the extent of that relief may be in dispute. Accordingly, the court hereby **SCHEDULES** a hearing for October 7, 2019, at 2:30 p.m., in Charleston wherein it will either discharge defendant, resentence him, or correct his sentence as may be appropriate.

The Clerk is directed to send copies of this Order to counsel of record, the United States Marshal, and the United States Probation Office.

IT IS SO ORDERED this 12th day of September, 2019.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge